

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

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WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: WV Council for Community & Technical College Education TITLE NUMBER: 135

RULE TYPE: Procedural CITE AUTHORITY: 18B-1-6 and 18B-1B-5

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 40

TITLE OF RULE BEING AMENDED: Equal Opportunity and Affirmative Action

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON September 27, 2013 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

James L. Skidmore, Chancellor

WV Council for Community and

Technical College Education

1018 Kanawha Blvd., East, Suite 700

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 135  
PROCEDURAL RULE  
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE  
EDUCATION

SERIES 40  
EQUAL OPPORTUNITY and AFFIRMATIVE ACTION

§135-40-1. General.  
~~SECTION 1. GENERAL~~

- 1.1. Scope. This rule establishes equal opportunity and affirmative action policy.
- 1.2. Authority. West Virginia Code §18B-1-6 and §18B-1B-5.
- 1.3. Filing Date. ~~April 3, 1992~~
- 1.4. Effective Date. ~~April 3, 1992~~

§135-40-2. General Policy.  
~~SECTION 2. GENERAL POLICY~~

- 2.1. It shall be the general policy of the West Virginia Council for Community and Technical College Education (Council) and the West Virginia Higher Education Policy Commission (Commission) to provide equal employment opportunity opportunities for to all qualified persons, employees and applicants and to prohibit discrimination in employment because of race, sex, age, color, religion, national origin, veterans status or handicap, and to take affirmative action to recruit and employ qualified faeulty and staff. or harassment against any such individuals on the basis of protected characteristics. The Council and Commission consider race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity and veteran status as protected characteristics and will not permit discrimination or harassment against any employee or applicant for employment on the basis of any such characteristic. The Council and Commission will conform both to the letter and the spirit of the law and regulations with respect to prohibiting any such discrimination or harassment and will engage in affirmative action to employ, advance in employment and treat all qualified persons without discrimination in any employment practices.
- 2.2. The scope of this policy prohibiting discrimination and harassment extends, but is not limited to, the following: recruitment, employment, promotion, transfer, training, working conditions, wage and salary administration, benefits and the application of all other employment-

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related policies. These principles of non-discrimination and anti-harassment also apply to the selection and treatment of independent contractors, personnel working on Council and/or Commission premises and any other persons or firms doing business with the Council and Commission.

- 2.3. Under the eCouncil's and Commission's additional authority to allocate specified functions and responsibilities among the institutions ~~under the Council for Community and Technical College Education~~ within the jurisdiction of the Council and Commission, each institution shall accept primary and long-term responsibility for the development and implementation of equal employment opportunity/ and affirmative action policies consistent with ~~all the eCommission's and Council's guidance state and federal~~ and all applicable laws and regulations.
- 2.34. Each institution and the ~~Council for Community and Technical College Education and Commission~~ Office shall take the initiative in developing or modifying its own plans to achieve compliance with the equal employment opportunity and affirmative action and equal opportunity policies of the Council and Commission as well as those of the ~~state and federal~~ state, and federal governments. The president of each institution shall, through appropriate means, establish and maintain a positive program of equal employment opportunity and affirmative action within her/his jurisdiction in accordance with ~~specific~~ all laws and regulations applicable to ~~her/his particular~~ the institution. The equal employment opportunity/ and affirmative action goals of the institution must be integrated into and consistent with the other performance goals of the institution. The realistic goals and timetables of each institution shall be vigorously pursued to achieve a proportional representative representation of minorities and women in the ~~faculty and non-faculty ranks in the workforce~~ workforce based on ~~their~~ availability within the relevant workforce recruitment markets. The effective pursuit of affirmative action requires not only the adoption of an adequate plan, but also results-oriented procedures which designed to ensure the involvement of managers at all levels of each institution. Institutional affirmative action plans ~~are to~~ shall be submitted to the eChancellors by July 1 of each year.
- 2.4.5. The eChancellors shall appoint an equal employment opportunity/affirmative action advisory council, to be known as the Chancellors' Equal Employment Opportunity Council, consisting composed of at least one representative from each of the campuses or institutions. The eCouncil will help to facilitate the achievement of equal employment opportunity/affirmative action pursuit and compliance across the institutions under the ~~Council's for Community and Technical College Education and Commission's~~ jurisdiction. Under the general direction of the eChancellors, the advisory eCouncil shall be responsible for, but not

necessarily limited to, the following ~~specific~~ duties and responsibilities:

- 2.4.5.1. Conducting periodic reviews of institutional equal employment opportunity/affirmative action plans and programs, while providing any assistance that may be required to improve programs and realize objectives.
- 2.4.5.2. Consulting from time to time with the ~~e~~Chancellors, and presidents of institutions; and/or their ~~assistants~~ designees on equal employment opportunity/affirmative action matters.
- 2.4.5.3. Reviewing copies of equal employment opportunity reports of all institutions (~~EEO-6 and others~~) submitted to federal ~~agencies~~ authorities responsible for enforcement of laws and regulations and providing consultation to the ~~e~~Chancellors where appropriate or as requested.
- 2.4.5.4. Helping to assure that current information affecting equal employment opportunity/affirmative action is disseminated to institutions and their employees. ~~The equal opportunity/affirmative action advisory council has the opportunity and authority to consult and cooperate with the equal opportunity/affirmative action council of the Council for Community and Technical College Education to share information and develop a statewide educational conference on related issues.~~
- 2.4.5.5. Conducting other advisory assignments as directed by the Chancellors.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Equal Opportunity and Affirmative Action

Rule Title: \_\_\_\_\_  
 Type of Rule:  Legislative  Interpretive  Procedural  
 Agency: WV Council for Community & Technical College Education  
 Address: 1018 Kanawha Blvd., East, Suite 700  
Charleston, WV 25301  
 Phone Number: 304-558-0265 Email: skidmore@wvctcs.org

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

None

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Equal Opportunity and Affirmative Action

Rule Title: \_\_\_\_\_

Rule Title: \_\_\_\_\_

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

NA

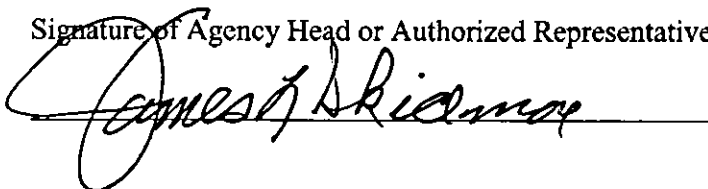
### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Establishes policy relating to equal opportunity and affirmative action.

Date: August 26, 2013

Signature of Agency Head or Authorized Representative





**WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION**

Nelson B. Robinson Jr., Chair • James L. Skidmore, Chancellor

## SUMMARY

Title 135  
Procedural Rule

WV Council for Community and Technical College Education

Series 40  
*Equal Opportunity and Affirmative Action*

This rule establishes equal opportunity and affirmative action policy which states that the West Virginia Council for Community and Technical College Education will provide equal employment opportunities to all qualified employees and applicants and to prohibit discrimination or harassment against any such individuals on the basis of protected characteristics.